

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JESUS DEJESUS,

Petitioner,

v.

ADMINISTRATOR, et al.,

Respondents.

Civil Action No. 23-2391 (KMW)

MEMORANDUM ORDER

This matter comes before the Court Petitioner's letter request for reconsideration (ECF No. 6) of the Court's denial of his request to have his amended habeas petition held in abeyance while he completes his state court PCR proceedings. (*See* ECF No. 5.) By way of background, Petitioner filed his amended petition (ECF No. 4) on June 7, 2023. On June 16, this Court entered an order which dismissed the amended petition without prejudice because it failed to set forth any claims for relief nor provided factual support for such claims as required by Rule 2(c) of the § 2254 rules. (*See* ECF No. 5.) In light of the dismissal, this Court also denied Petitioner's request for a stay and the holding of his amended petition in abeyance as the amended petition had been dismissed for failure to meet the habeas pleading requirements. Plaintiff was granted leave to file an amended petition within thirty days. (ECF No. 5 at 2.)

On or about July 8, 2023, Petitioner filed his current letter, framed as a "response" to the Court's order. (ECF No. 6.) That response neither contains an amended petition, nor addresses the dismissal of Petitioner's previous petition, and instead requests that this Court reconsider the denial of his request for a stay and abeyance. (*Id.*) Even putting aside the fact that Petitioner's request for reconsideration appears to be untimely, *see* Local Civil Rule 7.1(i) (reconsideration motion targeting non-final decision must be filed within fourteen days of the date on which the


order was entered), Petitioner's reconsideration request is without merit. In order to warrant a stay and the abeyance of a petitioner's habeas petition pending exhaustion, a habeas petitioner must, show, among other things, that his habeas petition contains claims of at least arguable merit. *See, e.g., Rhines v. Weber*, 544 U.S. 269, 274-78 (2005). Here, Petitioner's habeas petition contained no clear claims for relief and was dismissed without prejudice as it failed to meet the habeas pleading requirements. As such, Petitioner has presented no claims of at least arguable merit warranting a stay as of yet, and this Court cannot grant him a stay. In light of the dismissal of Petitioner's amended petition, there is no petition before this Court to be stayed, and Petitioner's reconsideration request must therefore be denied.

IT IS THEREFORE on this 24th day of July, 2023,

ORDERED that the Clerk of the Court shall re-open this matter for the purposes of this Order only; and it is further

ORDERED that Petitioner's reconsideration request (ECF No. 6) is **DENIED**; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order upon Petitioner by regular U.S. mail, and shall **CLOSE** the file.



Hon. Karen M. Williams,
United States District Judge